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BEYER WEAVER LLP P.O. BOX 70250 OAKLAND, CA 94612-0250			EXAMINER WONG, JEFFREY KEITH	
			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/864,927	Applicant(s) CANNON ET AL.	
	Examiner Jeffrey K. Wong	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34,35,38 and 55-66 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 34,35,38,55-66 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 34, 35, 38, 55-59 and 64-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pascal (WO-98-00210) in view of Okada (US 4,508,345).

Regarding claim 34, Pascal discloses a system and method of tournament gaming (abstract) comprising:

- Providing a plurality of gaming devices adapted for tournament play and configured to play at least one game of chance at variable rates of play (page 1, 1-35);
- Initiating a tournament game of chance on at least one gaming device of the plurality of gaming devices (page1, 1-35); and
- Playing the tournament game of chance at a first permitted rate of play as permitted by gaming device circuitry, relative to which the actual rate of play may vary (page 1, 1-35).

Pascal fails to disclose:

Playing the tournament game of chance at a first permitted rate of play and changing the rate of play to a second permitted rate of play automatically in response to one occurrence of a game outcome of a plurality of game outcomes that may result when the at least one game of chance is played matching a preselected game outcome from

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the plurality of game outcomes, the preselected game outcome preselected without regard to a payout associated with the preselected game outcome.

In a related patent, Okada teaches a slot machine with a bonus feature initiator combination ("SKILL.STOP", 2:10-35), which initiates an additional feature that alters the rate of play of the game machine from a first permitted rate of play to a second different rate of play that may be different from the actual rate of play (reel speed, 2:10-35). The initiator combination is for initiation of the bonus feature and is selected without regard to a payout (Okada teaches that they symbols for bonus initiation may be a plurality of things such as a series of cherries, lemons, or characters or figures, or 7's without' regard towards the payout). Okada and Pascal are analogous art because they both disclose devices for games of chance related to the player rate of play.

Therefore it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to include a rate of play altering feature initiated by a feature initiation combination of Okada into the tournament game of Pascal in order to introduce variances into the tournament play of Pascal and increase player interest and excitement.

Regarding claim 35, wherein the second permitted rate of play reverts to the first rate of permitted play automatically in response to occurrence of at least one other game outcome. Okada teaches that the feature is a bonus feature and therefore the feature will eventually expire and return to normal function of the game after at least one game

outcome.

Regarding claim 38, Pascal discloses end of the tournament game after a predetermined time interval. Therefore the bonus feature would also expire after a predetermined time interval since the game would end and revert back to normal play as disclosed by Pascal (page 3:1-35).

Regarding claim 55, wherein the second permitted rate of play reverts to the first permitted rate of play after a number of plays are initiated on the at least one gaming device. This feature is inherent in the combination of Pascal in view of Okada as Pascal discloses that the game reverts back to normal operation after the expiration of the tournament and therefore any bonus or abnormal operation is to be terminated. Further the teaching of Okada requires that at least one instance of the bonus be initiated due to the bonus feature and so the number of plays may be 1.

Regarding claim 56, Pascal and Okada fail to disclose the second permitted rate of play being faster than the first, however it is notoriously well known in the art as well as motivated by Pascal to increase the permitted rate of play as a bonus feature since it is the objective of the game of Pascal to play the game as quickly as possible to accumulate points to win a tournament (Pascal, page 2:11-25) and so such a bonus feature would be obvious to one of ordinary skill in the art given the teachings of Okada that enables on to alter the permitted rate of play of the game.

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Therefore it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to increase the permitted rate of play in response to the bonus outcome as to allow players to play faster and attain a competitive edge.

Regarding claim 57, Pascal is further silent regarding the second permitted rate of play being slow then the first permitted rate of play. As discussed above, Okada is analogous art with Pascal. Okada teaches that the second permitted rate of play may be slower than the first permitted rate of play as to allow players the perceived benefit of having likely desirable symbols to occur thereby giving some worth of the bonus feature in the view of the player (2:10-35).

Therefore it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to provide a bonus feature wherein the game's permitted rate of play is altered from a first speed to a second slower speed in order to increase the likelihood that desired symbols or combinations of symbols on the respective reels will occur (Okada 2:20-26).

Regarding claim 58, Pascal discloses that the tournament game of chance is at least one of a reel-type game and a card game (page 1:10-15 and 4:5-15).

Regarding claim 59, Pascal fails to explicitly disclose automatically initiating play at the second permitted rate of play irrespective of player input when the second permitted rate of play is permitted. As discussed above, Okada is analogous art with Pascal.

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Okada teaches that the initiation of the bonus feature at the second rate of play may be done automatically (2:25-35).

Therefore it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to automatically initiate play of the game at the second permitted rate of play irrespective of player input in order to allow players to enjoy the excitement of the bonus feature without having to be bothered by the requirement for player input.

Regarding claim 64, Pascal discloses qualifying for play in the tournament game by tendering a wager (page1:12-14).

Regarding claim 65, Pascal teaches qualifying for play in the tournament game by playing (current players) the at least one game of chance on the at least one gaming device (page 4:1-3, page5:18-21, 30-38).

3. Claims 60-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pascal (WO-98-00210) in view of Okada (US 4,508,345) as applied to claim 34 above and further in view of Angell, Jr. (US 6,368,218 B2).

Pascal and Okada are silent regarding the play of the game tournament at some minimum rate of play. That is, if the play of the game is below a minimum rate of play, the game machine conducts play at the minimum rate of play automatically. In a related patent, Angell teaches the play of a game tournament wherein players are required to

play at some minimum rate of play else the game machine will automatically conduct play of the tournament for them (4:7-16).

Therefore it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to include the automatic minimum rate of play feature of Angell with the tournament and bonus feature of Pascal in view of Okada in order to not completely disadvantage players who are not as fast as other players due to physical or other differences.

Regarding claim 62, Pascal in view of Okada and Angell discloses the claimed invention except for the automated minimum rate of play comprising a percentage of a standard rate of play of at least one game of chance. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to provide the above cited feature since it is well known in the art that minimum, by definition, is the smallest number in a finite set of numbers and has a value that is less than any other value of a function over a specific interval and average/standard, by definition is the intermediate between two extremes. Mathematically speaking, having a minimum rate comprising the percentage of a standard rate is well known and would have been obvious.

4. Claim 63 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pascal (WO-98-00210) in view of Okada (US 4,508,345) and Angell, Jr. (US 6,368,218 B2) as applied to claims 34 and 60-62 above, and further in view of Giacalone, Jr. (US 5,758,875).

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Pascal, Okada, and Angell meet the claimed limitations as discussed above, however they fail to explicitly disclose sampling rates of play of the at least one game of chance on at least some of the plurality of gaming devices and deriving the standard rate of play from the sampling. However in a related patent, Giacalone teaches a dynamic rate control method and apparatus for electronic games of chance which take samples of the rate of play of the gaming device to obtain a standard rate of play and adjust the rate of play accordingly (3:14-17). Giacalone is related to the prior art because it pertains to adjustments of rates of play for electronic gaming machines.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to obtain a standard rate of play using sampling techniques taught by Giacalone in the device of Pascal in view of Okada and Angell in order to obtain a more realistic and accurate standard rate of play measurement.

5. Claim 66 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pascal (WO-98-00210) in view of Okada (US 4,508,345) as applied to claims 34 and 65 above, and further in view of Lermusiaux (US 6,135,885).

Pascal in view of Okada meets the claimed limitations as discussed above and Pascal further discloses various ways (parameters) one can qualify for the tournament, but fails to explicitly recite qualifying for play in response to a at least one selected game outcome. In a related patent, Lermusiaux teaches a secondary game (football) which is entered upon the occurrence of a selected game outcome (football indicia, fig. 3).

Lermusiaux and Pascal are analogous art because they both teach games of chance

with secondary games and entrance conditions into said secondary games, therefore it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to include the secondary game entrance combination requirement of Lermusiaux with the tournament game of Pascal in view of Okada in order to introduce a variance into the game whereby increasing player interest and excitement. This can be achieved by the addition of said feature of Lermusiaux because entrance into a game that only requires a fee or the presence of a player does not make the entrance into the game as exciting as if it would have been if a random feature such as the entrance combination taught by Lermusiaux.

Response to Arguments

6. Applicant's arguments filed 12/26/2007 fully considered but they are not persuasive. Applicant alleges that a case of obviousness between Pascal and Okada is not established. The Examiner disagrees and believes obviousness is well established and intends to elaborate more clearly.

7. By the Applicant's own admission, the Applicant's invention, the game of chance is played at a different rate in response to a particular game outcome. By the Applicant's admission, Okada is directed toward a bonus game where an immediately subsequent bonus game is played at a low speed as a means of increasing chances of winning. In this case, the outcome of a prior game can result in a different rate for the subsequent game and therefore viewed as obvious. While the applicant's invention is directed

toward a tournament game and the prior art directed toward a slot machine, the motivation for implementing the change in the rate, a means of increasing chances of winning for players, is viewed as obvious because the implementation with that of a tournament game would yield predictable results. The Examiner views that the motivation to combine the method of changing the rate of a game is obvious with any gaming machines, especially games of chance.

8. Applicant's amendment to claim 34 with respect to the 112 rejection have been fully considered and are persuasive. The 112 rejection of 34, 35, 38, 55-56 has been withdrawn.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey K. Wong whose telephone number is (571)270-3003. The examiner can normally be reached on M-Th 8:30am-7:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hotaling can be reached on (571)272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John M Hotaling II/
Primary Examiner, Art Unit 3714

JKW